

# EXHIBIT 1

**From:** [Steve Primm](#)  
**To:** [Bowey, Jan M -FS](#)  
**Subject:** Re: 2013 Observation - Bighorn Carcass  
**Date:** Monday, March 06, 2017 2:17:38 PM  
**Attachments:** [image002.png](#)  
[image001.png](#)  
[image003.png](#)  
[image004.png](#)

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Thanks Jan - yes, that's an accurate description.

My job title is Conservation Director at People and Carnivores. I specialize in carnivore-human conflicts.

On Mon, Mar 6, 2017 at 1:26 PM, Bowey, Jan M -FS <[jbowey@fs.fed.us](mailto:jbowey@fs.fed.us)> wrote:

Thank you for visiting with me Friday evening about your 2013 observation of a bighorn ewe carcass on the south side of Black Butte in early-August 2013. The observation was recorded by MFWP August 7, 2013. Based on your recollection, you and Kelly Savage (BLM range management specialist) summited Black Butte the prior weekend (Aug 3<sup>rd</sup> or 4<sup>th</sup>) using the user created trail along the south side of the volcanic neck. Roughly mid-slope, both of you observed a rotting bighorn ewe carcass. You reported the observation to MFWP because you are aware of potential pathogen transmission concerns between bighorn sheep and domestic sheep when the species come into contact and knew there was not a bighorn sheep herd located in the immediate vicinity of Black Butte, making the observation unusual.

Let me know if I recorded any of this information incorrectly.



**Jan M. Bowey,**

**Acting Range Program Manager  
Forest Service**

**Beaverhead-Deerlodge National Forest**

**p: [406-683-3853](tel:406-683-3853)**

**c: [406-596-2477](tel:406-596-2477)**

**f: [406-683-3936](tel:406-683-3936)**

**[jbowey@fs.fed.us](mailto:jbowey@fs.fed.us)**

420 Barrett Street

Dillon, MT 59725

[www.fs.fed.us](http://www.fs.fed.us)



**Caring for the land and serving people**

**From:** [Fager, Craig](#)  
**To:** [Bowey, Jan M -FS](#)  
**Subject:** RE: Observation of Dead Bighorn Near Black Butte  
**Date:** Friday, March 03, 2017 3:29:33 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[BlackButteBHS observation record.xlsx](#)

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Jan,

The 2013 Black Butte bighorn observation came from my wildlife observation database. The observation is copied in the attached Excel file. The bighorn portion of this database was shared with members of the public during the formulation of the Tendoy bighorn depopulation effort in 2015, minus the observer information. As I recall the observation, it was a phone exchange with Steve Primm, Ennis. The date of the observation was August 8, 2013. He stated that he found a dead bighorn ewe in the vicinity of Black Butte and felt we should be aware of it. I recorded the observation but did not confirm the mortality with a site visit. At the time the FWP Sheridan biologist position was vacant. I do not recall any other details of my conversation with Steve Primm.

If you have any additional questions, please feel free to contact me.

Good day  
Craig Fager  
FWP Biologist, Dillon

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**From:** Bowey, Jan M -FS [mailto:[jbowey@fs.fed.us](mailto:jbowey@fs.fed.us)]  
**Sent:** Friday, March 03, 2017 1:39 PM  
**To:** Waltee, Dean <[DWaltee@mt.gov](mailto:DWaltee@mt.gov)>; Fager, Craig <[CFager@mt.gov](mailto:CFager@mt.gov)>  
**Subject:** Observation of Dead Bighorn Near Black Butte

I'm still sorting my way through all of the comments we received on a court-ordered Draft Review of New Information analyzing the significance of information that may have significant environmental impacts not previously considered in environmental analysis documents approving allotment management plans for sheep allotments in the Gravelly Mountains near Black Butte. Several letters reference an observation of a dead bighorn ewe near Black Butte in 2013. I've attached one of the letters (see the orange highlights on page 3 and 6). References in other letters are similar to this one. Could you send me a copy of whatever document you may have of that observation? I don't need a response from both of you – actually, I'm hoping one or the other of you may have some details on it.

THANKS



Jan M. Bowey,  
Acting Range Program Manager  
Forest Service  
Beaverhead-Deerlodge National Forest  
p: 406-683-3853

c: 406-596-2477  
f: 406-683-3936  
[jbowey@fs.fed.us](mailto:jbowey@fs.fed.us)

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**Caring for the land and serving people**

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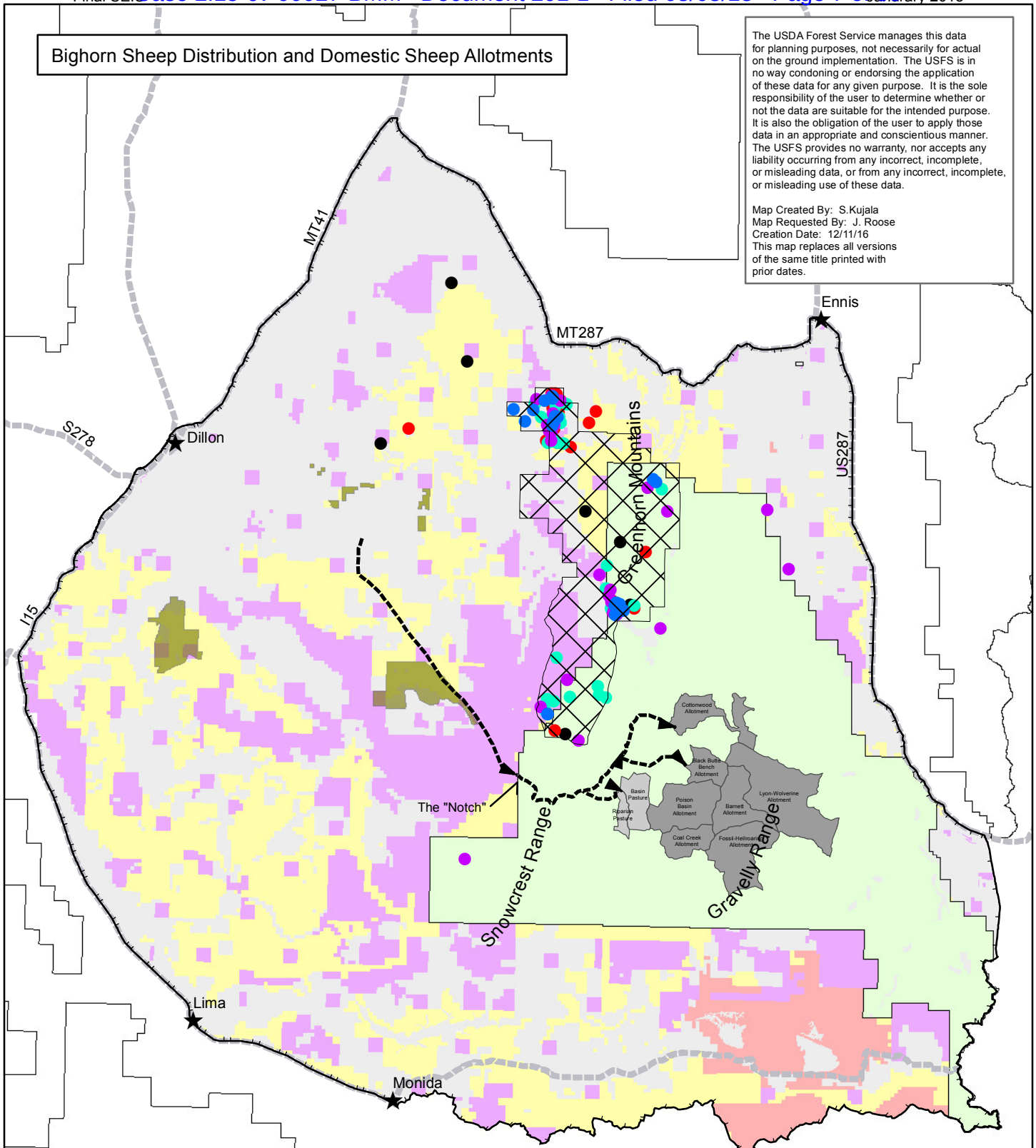
DATE	CODE	NUMBER	Sex	SPECIES	LOCATION	T	R	S	COMMENT
8/7/13	M		1 F	Bighorn	Black Butte				reported dead-Steve Prim, Ennis

## EXHIBIT 2

# Bighorn Sheep Distribution and Domestic Sheep Allotments

The USDA Forest Service manages this data for planning purposes, not necessarily for actual on the ground implementation. The USFS is in no way condoning or endorsing the application of these data for any given purpose. It is the sole responsibility of the user to determine whether or not the data are suitable for the intended purpose. It is also the obligation of the user to apply those data in an appropriate and conscientious manner. The USFS provides no warranty, nor accepts any liability occurring from any incorrect, incomplete, or misleading data, or from any incorrect, incomplete, or misleading use of these data.

Map Created By: S. Kujala  
Map Requested By: J. Roose  
Creation Date: 12/11/16  
This map replaces all versions of the same title printed with prior dates.



## Legend

Beaverhead-Deerlodge NF Administrative Boundary

Towns

### Ownership within Gravelly Landscape

US Forest Service  
US Bureau of Land Management  
Other Federal Lands  
State Lands  
Private

Major Roads and Highways

Landscape Boundaries

BLM Sheep Allotments

FS Sheep Allotments

FS Upper Ruby Cattle and Horse Allotment - Riparian and Basin Pastures Boundaries

### Approximate Domestic Sheep Trailing Routes

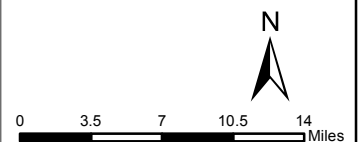
Approximate Domestic Sheep Trailing Routes

Greenhorn BHS Distribution\*

\*Greenhorn BHS Distribution Updated 12/2017 from Personal Communication with Montana Fish, Wildlife, and Parks.

### Montana Fish, Wildlife, and Parks BHS Observation Points

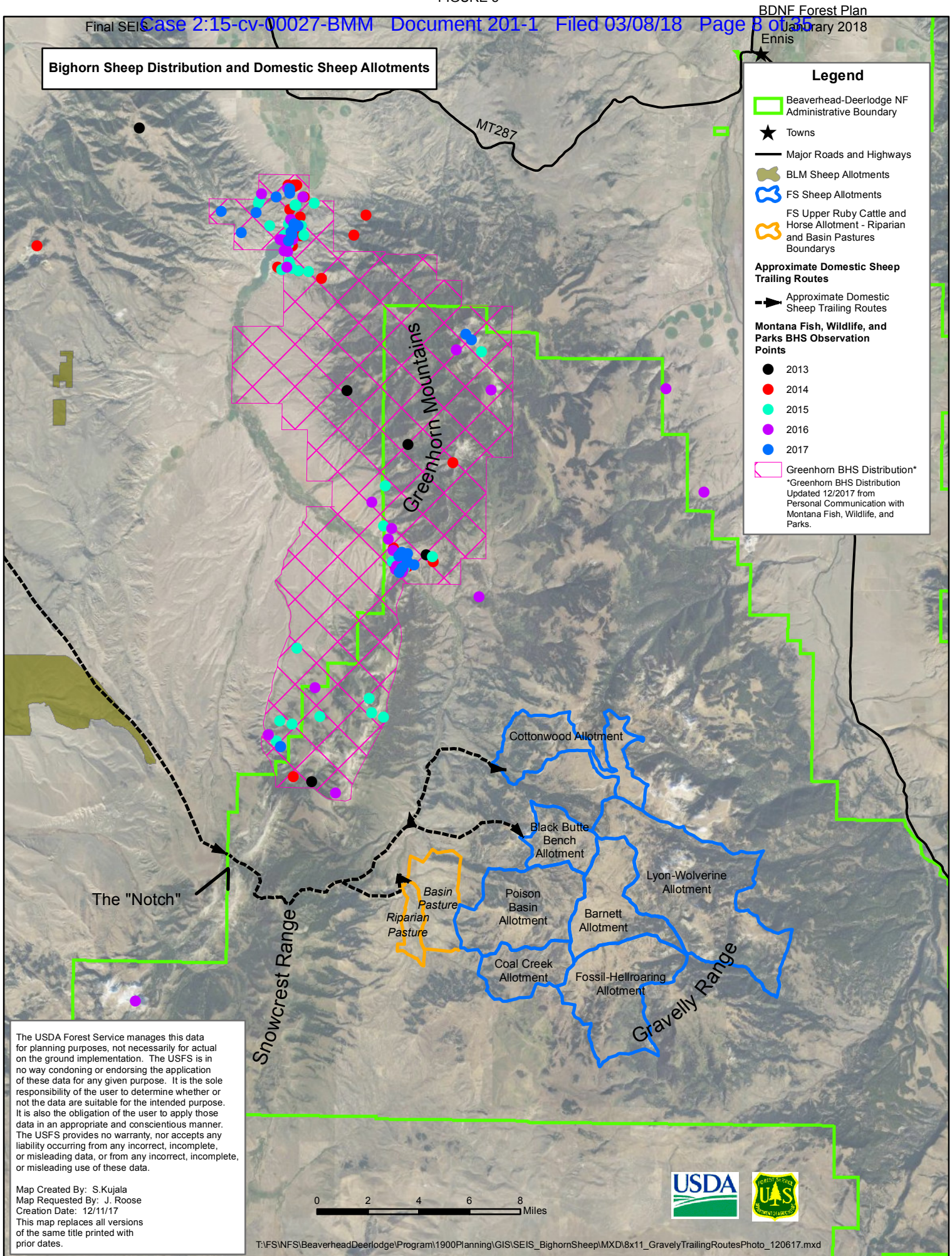
2013  
2014  
2015  
2016  
2017



T:\FS\NFS\BeaverheadDeerlodge\Program\1900Planning\GIS\SEIS\_BighornSheep\MXD\8x11\_GravellyTrailingRoutesUpdate\_112817.mxd



FIGURE 5



## EXHIBIT 3



In the 13 years since bighorn sheep were reintroduced to the Greenhorn Mountains, bighorn sheep and permitted domestic sheep on the BDNF have not been found in close proximity.

During the few years following the transplant, some individuals did risk commingling with domestic sheep (but not on the BDNF) and some individuals were removed by MFWP (under their normal legislative authority, not agreements in the MOU) preventing potential pathogen exposure of the larger bighorn sheep herd. Such action has not been necessary since 2005.

It is reasonable to assume, based on the past 13 years of bighorn sheep presence, this trend of acceptable separation between the species will continue in the recent future. If, in the event separation does not occur in 2018, MFWP has legislative authority to agree to or institute measures to limit pathogen exposure to individual bighorn sheep and prevent exposure of the entire herd<sup>18</sup>. The MOU expires on January 31, 2018, unless extended. The Forest Service will be working with the parties with the intent to extend the existing 2016 MOU modification.

#### **Effect of the 2016 MOU modification on management of bighorn sheep habitat in the Greenhorn Mountains**

Similar to the original 2002 and 2008 MOUs, the 2016 modification continues the collaborative effort to ensure wild and domestic sheep do not commingle or if they do that potentially diseased bighorn sheep do not return to their herd. The modification does not alter the use, management, or availability of bighorn sheep habitat in the Greenhorn Mountains on the BDNF. Forest Plan related decisions reducing the amount of rangeland suitable for livestock grazing and limiting road densities, and prohibiting winter motorized use remain in effect.

#### **Effect of the 2016 MOU modification on availability and use of habitat on nearby BDNF lands by bighorn sheep**

Similar to the original 2002 and 2008 MOUs, the 2016 modification continues the collaborative effort to ensure wild and domestic sheep do not commingle or if they do, that potentially diseased bighorn sheep do not return to their herd.

When the 2008 MOU was signed, MFWP management direction documented in the 2010 Montana Bighorn Sheep Conservation Strategy was not yet fully developed. The current MFWP guidance for special translocation is described here to provide readers information about the process that would likely be followed if a bighorn sheep transplant is proposed in the Gravelly Mountains sometime in the future.

Since the issuance of earlier versions of their transplant guidelines (1986) and policy (1995), new laws and regulations affecting these earlier MFWP directions leading to the development of additional elements for translocating wild sheep were developed. The updated process for wild sheep translocation has three major elements which are described in length beginning on page 60 of the strategy (MFWP 2010). The three elements include: 1) criteria for identifying potential new transplant sites; 2) process for recommending and implementing new transplants; and 3) process for augmenting existing bighorn populations.

Briefly, the process for new site evaluation (element 1) involves assessing the site utilizing a 10 point filter which assists managers in quantifying the habitat. These 10 quantifiers look at, for example, historical bighorn sheep use, movement barriers, escape terrain, existence of suitable winter and summer range, lambing habitat, and proximity to domestic sheep and goats.

The process for recommending and implementing translocations of bighorn sheep to new sites (element 2) involves an 11 step strategy, again assessing the available habitat, connectivity to

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<sup>18</sup> Refer to Footnote 9.

## EXHIBIT 4

**Final Review of New Information Pertinent To  
Domestic Sheep Allotment Management Plans  
In the Gravelly Mountains  
On the Beaverhead-Deerlodge National Forest**

**December 26, 2017**



**Domestic Sheep grazing on a permitted allotment in the Gravelly Mountains**



**Bighorn rams in the Greenhorn Mountains near the Ruby River Reservoir**



Service domestic sheep grazing allotments (Brock et al. 2006) depending on terrain and vegetation separating the species. Because the risk of contact between the species extends beyond Forest lands, associated issues involving bighorn sheep exceed the authority of the BDNF (USDA 2011). DeCesare and Pletscher (2006) suggest that more open areas which allow for high-visibility, such as grasslands and recently burned forests, were generally preferred by bighorn sheep over more densely vegetated forests. The preference for high-visibility areas by bighorn sheep is also supported by Valdez and Krausman (1999) (as appearing in O'Brein et al. 2014) as well as Brewer et al. (2014). Sparsely vegetated areas are more likely to provide forage in quantity and quality, facilitate travel and forays and provide greater visual site-distance to detect predators. Both slope and distance to escape terrain appear to be important to seasonal bighorn sheep movements (DeCesare and Pletscher 2006).

The Greenhorn bighorn sheep herd distribution area, including the Snowcrest Mountains, is approximately 5.5 miles from the closest permitted domestic sheep grazing allotment in the Gravelly Mountains. These mountain ranges are separated by high elevation open grasslands with minimal escape terrain for bighorn sheep. .

However, commingling and risk of contact resulting in pathogen exposure and possible disease transmission is a concern for Greenhorn bighorn sheep venturing onto adjacent private lands, other public lands with known domestic sheep grazing in or near their current distribution area or on the domestic sheep allotments in the Gravelly Mountains. The BDNF lands in the Gravelly Mountains are surrounded by adjacent mixed land ownerships (USDA 2011) where a collage of domestic sheep presence exists (private sheep producers, hobby herds; weed control; USDA Sheep Experiment Station, and BLM allotments). For example, MFWP (2010) noted that sheep producers on private lands are in close proximity to 15 bighorn sheep herds (Krehbiel 2016). Adding to the difficulty of managing risk of contact between the species' is that currently there is no database identifying all domestic sheep grazing on private lands (Krehbiel 2016) including those utilized for weed control, sheep producers, and hobby herds (4-H projects) and private owners often lack a full understanding of the risk of disease transmission. For the Greenhorn herd, the herd currently utilizes winter habitats on both private and BLM lands outside of the Forest Service boundary. The risk of commingling currently exists on these lands. The maps in Appendix A display known federal domestic sheep allotments in the Gravelly Landscape (BLM and Forest Service).

## Summary

In summary, from a review of most recent literature, it is clear maintaining spatial separation between domestic and wild sheep, is foremost the best approach to limiting disease transmission between the two species (Cassier et al. 2018). Brewer et al. (2014) notes there is currently no effective treatment once clinical signs of pneumonia are documented.

Unfortunately, once a herd has been exposed to pneumonia, it may experience continued effects (e.g. generational carriers) making population recovery difficult even when habitat is apparently abundant (Krehbiel 2016; Enk et al. 2001; Towell and Geist 1999; Stelfox 1976, Ouderlea and Wishart 1982, Spaker and Hibler 1982, and Jessup 1985 all appearing in Gross et al. 2000 and Cassier et al. 2018).

In terms of management of the BDNF domestic sheep allotments in relation to the bighorn sheep, spatial separation has been maintained between the BDNF domestic sheep allotments and bighorn sheep. Further, the modified 2016 MOU between the BDNF, MFWP, BLM, and

## EXHIBIT 5









# United States Department of the Interior



## FISH AND WILDLIFE SERVICE

Office of Law Enforcement  
4401 N. Fairfax Drive (LE-3000)  
Arlington, VA 22203

In Reply Refer To:  
FWS/LE ADM 4-08-2014-00344

**MAR 26 2014**

Mr. John Meyer  
Cottonwood Environmental Law Center  
24 S Wilson Ave  
Suite 6-7  
Bozeman, MT 59715

Dear Mr. Meyer:

This letter acknowledges receipt of, and completes our response on behalf of the U.S. Fish and Wildlife Service's Office of Law Enforcement to, our Freedom of Information Act (FOIA) request dated September 29, 2013, seeking "electronic copy of all information regarding the recent killing/mortality of a grizzly bear in the Gravelly mountains of southwest Montana. We have a reason to believe a bear was killed after a conflict with domestic sheep on Forest Service land."

Your request was received by this office on December 12, 2013, from Ms. Antoinette Urioste, U.S. Fish and Wildlife Service's Region 6 FOIA Coordinator, and was placed in the Department of the Interior (DOI) FOIA Tracking System under reference number FWS-2014-00344. Please refer to this number in your communications regarding this request.

Enclosed are copies of responsive documents (15) pages. We have invoked the following FOIA exemptions

- Exemptions (b)(6)/(b)(7)C. Certain names and personal identifiers of any individual in law enforcement files have been withheld under 5 U.S.C. 552 § (b)(6) and § (b)(7)(C). FOIA exemptions (b)(6) and (b)(7)(C) provide protection for personal privacy interests. When a privacy interest is found to exist in the documents at issue, the public interest in disclosure must be weighed against the privacy interest in non-disclosure. Here, release of the withheld personal information would not serve any substantial public interest. Under the FOIA, information will be regarded in the public interest when it is likely to contribute significantly to public understanding of the operations or activities of the



Mr. John Meyer

Government. Since you have not provided, and we are unaware of, any substantial public interest to be served by the release of this information, this information has been withheld.

During our review we located 4 pages that originated with the U.S. Department of Agriculture, and 1 page with U.S. Department of Justice. These documents are being referred for their release determination along with a copy of your original request. You may contact these agencies at the addresses listed below.

U.S. Department of Agriculture  
Animal & Plant Health Inspection Service  
4700 River Road, Unit 50  
Riverdale, MD 20737  
Attn: Tonya Woods

U.S. Department of Justice  
Office of Information Policy  
1425 New York Avenue, N.W.  
Suite 11050  
Washington, D.C. 20530-0001  
Attn: Carmen L. Mallon

Although I believe the above withholdings in no way interfere with a complete response to your request for information, you may wish to treat this as a partial denial. The decision to withhold/deny this information was made by the undersigned and approved by Johnny Hunt, Freedom of Information Act Officer, U.S. Fish and Wildlife Service, in consultation with Larry Mellinger, Attorney-Advisor, Office of the Solicitor, U.S. Department of the Interior.

You may appeal this determination under Section 2.28 - 2.30 of Title 43, Code of Federal Regulations. The FOIA Appeals Officer must receive your FOIA appeal no later than 30 workdays from the date of this final letter responding to your FOIA request. Appeals arriving or delivered after 5 p.m. E.T., Monday through Friday, will be deemed received on the next workday. Your appeal must be in writing and addressed to:

Freedom of Information Act Appeals Officer  
Department of the Interior  
Office of the Solicitor  
1849 C Street, NW MS 6556  
Washington, D.C. 20240

You must include with your appeal copies of all correspondence between you and the bureau concerning your request, including a copy of your original FOIA request and this final response letter. Failure to include this documentation with your appeal will result in the Department's



Mr. John Meyer

rejection of your appeal. The appeal should be marked, both on the envelope and on the face of the letter with the legend, "FREEDOM OF INFORMATION ACT APPEAL." Your letter should include as much detail as possible citing any reason(s) why you believe the bureau's response is in error.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. § 552 (c) (2006 & Supp. IV 2010). This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

Our cost for these documents follows:

Search/review time (professional) 1 hours @ \$42.00 per hour	=	\$42.00 Waived
Duplication of 20 pages @ \$.15 per copy	=	\$3.00 Waived
Total		\$45.00 Waived

All fees in this matter have been waived.

If you have any further questions relating to this response, please contact Mr. Kenneth Perry of my staff at (703) 358-1949.

Sincerely,

*W. C. Woody*

William C. Woody  
Assistant Director, Office of Law Enforcement

**REPORT OF INVESTIGATION**

Title: [REDACTED]

(b)(6),  
(b)(7)(C)

INV#: 2013604784

Report: 2

**DETAILS OF INVESTIGATION**

**Declined For Prosecution**

Special Agent (SA) [REDACTED] discussed the case with, and provided a copy of the report of investigation to, Assistant U.S. Attorney (AUSA) [REDACTED]. On 10/29/2013, SA [REDACTED] received a declination letter (see attachment 1- Declination Letter) from AUSA [REDACTED].

This case is recommended for closure.

**DESCRIPTION OF SUBJECTS**

DOB: [REDACTED]

SSN: [REDACTED]

**PRIOR VIOLATIONS FOUND IN LEMIS**

Not applicable since no new subjects were identified.

**WITNESSES**

SA [REDACTED]  
2900 4th Ave North, Suite [REDACTED]  
Billings, MT 59101  
PHONE: [REDACTED]  
FAX: 406-247-7357

**LAWS VIOLATED**

On 08/25/2013, within the District of Montana, [REDACTED] did illegally take a grizzly bear in violation of the Endangered Species Act- 16 USC 1538(a)(1)(G). The case was declined for prosecution.

**EVIDENCE**

No new evidence to report.

**ATTACHMENTS**

1. Declination Letter (1 page)

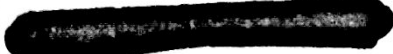

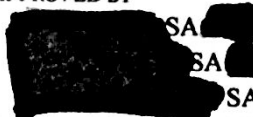





DEPARTMENT OF THE INTERIOR  
U.S. FISH AND WILDLIFE SERVICE  
OFFICE OF LAW ENFORCEMENT



(b)(6),  
(b)(7)(C)

**REPORT OF INVESTIGATION**  
**REPORT#: 2013604784R001**  
**APPROVED - CASE CLOSED**

Note: This document contains neither recommendations nor conclusions of the Office of Law Enforcement, U.S. Fish and Wildlife Service. It is the property of this office and is loaned to your agency. It, and its contents are not to be distributed outside of your agency.

CASE TITLE 	REPORT DATE 09/30/2013	CASE NUMBER 2013604784
	REPORTING OFFICER  - SA	CASE STATUS PENDING
	APPROVED BY  SA - 11/27/2013  SA - 09/30/2013  SA - 10/23/2013	
SUBJECTS OF REPORT 		

SYNOPSIS

On 09/23/2013, Special Agent  received a report of investigation from Montana Fish Wildlife and Parks grizzly bear  regarding a grizzly bear take that occurred on 08/25/2013.

This report documents the investigative steps taken by Montana Fish Wildlife and Parks wardens.

DISTRIBUTION

Internal List

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## REPORT OF INVESTIGATION

Title: [REDACTED]

INV #: 2013604784

Report #: R001

### DETAILS OF INVESTIGATION

#### Report of a Grizzly Bear Shooting

On 08/26/2013, the U.S. Fish and Wildlife Service Billings Montana Resident Office received a preliminary verbal report of a grizzly bear (*Ursus arctos horribilis*) take in the Hellroaring Creek area, Beaverhead National Forest- Madison County, Montana- from Montana Fish Wildlife and Parks (MTFWP) grizzly bear [REDACTED]. The actual incident occurred on 08/25/2013.

On 08/26/2013, MTFWP [REDACTED] and [REDACTED] traveled to the scene to investigate.

#### Reports Received From MTFWP

On 09/23/2013 and 09/24/2013 [REDACTED] forwarded the scene investigation report, including photographs, and a MTFWP Grizzly Bear Mortality Report (see attachment 1- MTFWP Reports and Photographs). Below is a summary of the pertinent points from their report:

On 08/26/2013, [REDACTED] and [REDACTED] traveled to the scene accompanied by the owner of the sheep herd, [REDACTED]. They met with the [REDACTED] sheep herder [REDACTED]. [REDACTED] could not speak English, so [REDACTED] translated.

#### [REDACTED] account of the incident

- On the night of 8/23/2013, [REDACTED] dogs engaged a grizzly bear in [REDACTED] herd of sheep and were able to successfully drive it away.
- The following morning, [REDACTED] discovered three dead sheep, partially consumed. A partially consumed sheep was approximately 50 yds from [REDACTED] camp. As directed, [REDACTED] moved [REDACTED] camp and the herd approximately 1 mile east from that spot.
- Between 2 and 4 am on 8/25/2013, [REDACTED] dogs engaged a grizzly bear approaching [REDACTED] camp area. At some point, [REDACTED] decided to shoot the bear as the engagement was continual and the bear was appearing more aggressive. [REDACTED] estimated the shot to be about 50 yds from [REDACTED] tent.
- The bear was hit and ran off with the dogs following. [REDACTED] pursued the dogs and reengaged the bear at a stand of trees east of camp and eventually fired two more shots that killed the bear.

(b)(6),  
(b)(7)(C)

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## REPORT OF INVESTIGATION

Title: [REDACTED]

INV #: 2013604784

Report #: R001

### Scene analysis

- A grizzly bear carcass was lying about 150 yards from [REDACTED] tent at the edge of a stand of cottonwood trees.
- There were also three bullet wounds. Looking from the front of the bear, one wound was on the upper right shoulder around the base of the neck. A second wound was on the right hind quarter. A third wound was on the left flank with intestinal tissue protruding from the wound. Suggesting that the second wound may be the entry of one of the bullets and the third would be the exit wound with tissue following the bullet path out.
- A quick necropsy of the stomach contents revealed this bear had been feeding on domestic sheep as muscle tissue and wool fibers were evident and almost exclusive.

### USDA Wildlife Services

On 09/25/2013, Special Agent (SA) [REDACTED] spoke to [REDACTED] USDA Wildlife Services State Director/ Supervisor. [REDACTED] reported that one of [REDACTED] investigators, [REDACTED] spoke to [REDACTED] on multiple occasions just prior to the grizzly bear incident regarding increased bear activity and advised that [REDACTED] should move [REDACTED] sheep. [REDACTED] said this is pretty common advice. [REDACTED] sent an email which included two recent investigative reports - one involving [REDACTED] sheep and a black bear that occurred on 08/27/2013, and another involving a nearby heard and a grizzly bear that occurred on 08/13/2013 (see attachment 2 - USDA Reports).

### Subjects Information

On 09/27/2013, [REDACTED] provided SA [REDACTED] with [REDACTED] personally identifiable information. [Agents Note: MTFWP reports refer to the subject's last name as [REDACTED] however [REDACTED] provided the full name of [REDACTED]. This information included [REDACTED] citizenship and visa status. SA [REDACTED] verified [REDACTED] citizenship and visa status with the U.S. Department of State, Diplomatic Security Service on 09/30/2013.



(b)(6),  
(b)(7)(C)

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## REPORT OF INVESTIGATION

INV #: 2013604784

Title: [REDACTED]

Report #: R001

### DESCRIPTION OF SUBJECTS

[REDACTED]

DOB: [REDACTED]

SS#: [REDACTED]

[REDACTED]

Citizenship: [REDACTED]

Passport Info: Country of Issue- [REDACTED]

[REDACTED]

### PRIOR VIOLATIONS

A search for [REDACTED] did not return any results.

### WITNESSES

SA [REDACTED]  
2900 4<sup>th</sup> Ave N #301  
Billings, MT 59101  
Phone: [REDACTED]  
Fax: (406)274-7357

Warden [REDACTED]  
MTFWP  
PO Box 1427  
West Yellowstone, MT 59758  
Phone: [REDACTED]

Warden [REDACTED]  
MTFWP  
1400 South 19<sup>th</sup> Ave  
Bozeman, MT 59718  
Phone: [REDACTED]

[REDACTED]  
MTFWP - Biologist  
1400 South 19<sup>th</sup> Ave  
Bozeman, MT 59718  
Phone: [REDACTED]

(b)(6),  
(b)(7)(C)

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## **REPORT OF INVESTIGATION**

Title: [REDACTED]

INV #: 2013604784

Report #: R001

### **LAWS VIOLATED**

On 08/25/2013, within the District of Montana, [REDACTED] did illegally take a grizzly bear in violation of the Endangered Species Act- 16 USC 1538(a)(1)(G).

### **EVIDENCE**

#### **Evidence Seized and maintained by Another Agency:**

1. MTFWP Wardens disarticulated the head and paws which are being maintained and stored as evidence by MTFWP.

### **ATTACHMENTS**

1. MTFWP Reports with Photo Contact Sheet (8 pages)
2. USDA Reports (4 pages)

(b)(6),  
(b)(7)(C)

September 17, 2013

Southern Gravelly Grizzly Bear#677 Mortality:

Sheep Depredation

Investigators: [REDACTED]  
[REDACTED]

Date of Report: 8/25/2013

Location: Southern Gravelly Range. Hell roaring Creek; Crater Ridge.

Reporting: [REDACTED]

Summation:

On 25 August 2013 at 2000 hrs, I received a call from MFWP Bear Specialist [REDACTED] with regards to a grizzly bear that had been reported shot by a sheep herder in the Southern Gravelly Range. I was requested to call [REDACTED] owner of the sheep, and arrange a time for [REDACTED] to escort me to the site and investigate the scene. [REDACTED] also indicated that the USFWS had been notified and may be sending someone down.

The following morning it was decided, after consultations with USFWS and MFWP agents, that [REDACTED] and I would go to the scene and investigate and collect evidence. Then report back to both agencies. We arranged to meet [REDACTED] at the Hell Roaring trailhead around 12:00p.m.

[REDACTED] and I left the trailhead around 1230 and headed to the sheepherder camp. At camp we met with the herder, [REDACTED] could not speak English, so [REDACTED] relayed the event to us as [REDACTED] described what happened. [REDACTED] taped the conversation.

The following is what was described:

- On the night of 8/23- [REDACTED] dogs engaged a Grizzly Bear in [REDACTED] herd of sheep and were able to successfully drive it away.
- The following morning, [REDACTED] discovered three dead sheep, partially consumed. A partially consumed sheep was approximately 50 yds from [REDACTED] camp. As directed, [REDACTED] moved [REDACTED] camp and the herd approximately 1 mile east from that spot.



(b)(6),  
(b)(7)(C)

- Between 2 and 4 am on 8/25 [REDACTED] dogs engaged a Grizzly Bear approaching [REDACTED] camp area. At some point, [REDACTED] decided to shoot the Bear as the engagement was continual and the Bear was appearing more aggressive. [REDACTED] estimated the shot to be about 50yds from [REDACTED] tent.
- The bear was hit and ran off with the dogs following. [REDACTED] pursued the dogs and reengaged the bear at a stand of trees east of camp and eventually fired two more shots that killed the bear.
- The incident was reported to [REDACTED] who went to the camp, found the bear, and then reported it to the USDA/WS that day.

[REDACTED] and I arrived at the camp where the tent was standing. After a brief search we found the following:

- A grizzly bear carcass was lying about 150yds from [REDACTED] tent at the edge of a stand of cottonwood trees
- There were 3 ear tags in the bear. One (1) yellow ear tag with number 236 and two (2) red ear tags, one in each ear. Numbers 898 and 954.
- There were also three bullet wounds. Looking from the front of the bear, one wound was on the upper right shoulder around the base of the neck. A second wound was on the right hind quarter. A third wound was on the left flank with intestinal tissue protruding from the wound. Suggesting that the second wound may be the entry of one of the bullets and the third would be the exit wound with tissue following the bullet path out.
- The Bear appeared to be in good condition with no apparent tooth issues and no obvious chronic injuries.
- There was also an area just in the trees where the ground was torn up. I was told this is where [REDACTED] reengaged the bear that night and found him pawing and wrestling around and chewing at his side. [REDACTED] shot at the bear twice here and disengaged. The carcass was found dead approximately 10yds from this site.
- A quick necropsy of the stomach contents revealed this bear had been feeding on domestic sheep as muscle tissue and wool fibers were evident and almost exclusive.

[REDACTED] and I took pictures and coordinates from the site. We retrieved the feet and head from the carcass and packaged stomach contents for analysis at the FWP lab in Bozeman. We left the site and went to the first camp where the sheep carcasses were. We observed three sheep that had obviously been fed upon and were still being utilized by other critters. We took pictures and gathered some hair fibers from the carcasses and then returned to the trailhead. [REDACTED]

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**Possible scenario:**

The information told to us and the evidence we found at the scene, seemed consistent with [REDACTED] recollection. I am not sure about the sequence of shots, but a possibility is that the first shot may have hit the bear in the rear hind quarter and exited through the bears left flank bringing out the intestinal tissue. That may suggest why [REDACTED] found the bear struggling and "chewing at his side". That would leave the remaining wound in the neck as the fatal shot. Suggesting one shot was a miss.



(b)(7)(C)

## Grizzly Bear Mortality Report

*-draft-*

Date Reported: 08/25/13

Date of Mortality: 08/25/13

Reported by: [REDACTED]

Cause of Mortality: DLP sheep/guard dogs/herder (prior sheep depredations) – *under investigation*

Location of Mortality: Hellroaring Creek – Crater Ridge, Madison County – BNF

UTM: 435.461 x 4965.432 NAD 83 elevation 9046'

Bear ID: #677 (mort #2013-16) ear-tags visible and matched

Age of Bear: Adult – 8 yrs

Sex of Bear: male

Investigated by: [REDACTED] – MFWP, USFWS consultation

Disposition of Bear: On 08/25/13, Bear #677 was killed in a reported DLP situation between 0200 and 0400 hours by a sheep-herder in a backcountry situation. Owner of the sheep herd reported the bear mortality to USDA/WS on 08/26/13 and they contacted [REDACTED] MFWP. Mortality site and depredation sites were investigated and the head, feet and stomach contents of the bear were collected and taken to the MFWP Wildlife Lab in Bozeman. Examination of the stomach contents revealed domestic sheep muscle, fat and wool. This would be consistent with the reported sheep depredations that occurred in this herd on 08/24/13. All parts of the bear are currently being held in evidence at the MFWP Wildlife Lab.





DEPARTMENT OF THE INTERIOR  
U.S. FISH AND WILDLIFE SERVICE  
OFFICE OF LAW ENFORCEMENT

(b)(6),  
(b)(7)(C)

REPORT OF INVESTIGATION  
REPORT#: 2013604784R002  
APPROVED - CASE CLOSED

Note: This document contains neither recommendations nor conclusions of the Office of Law Enforcement, U.S. Fish and Wildlife Service. It is the property of this office and is loaned to your agency. It, and its contents are not to be distributed outside of your agency.

CASE TITLE

REPORT DATE  
12/09/2013

CASE NUMBER  
2013604784

REPORTING OFFICER

CASE STATUS  
RECOMMENDED FOR  
CLOSURE

APPROVED BY

SA [REDACTED] - 12/09/2013

SA [REDACTED] - 12/13/2013

SUBJECTS OF REPORT

SYNOPSIS

The case was presented to Assistant United States Attorney [REDACTED] in the District of Montana and was declined for prosecution. This report documents the declination.

This case is recommended for closure.

DISTRIBUTION

Internal List

SA [REDACTED]  
SA [REDACTED]  
SA [REDACTED]

















USFS 010108

Attachment 1

## **EXHIBIT 6**





COTTONWOOD

ENVIRONMENTAL LAW CENTER

May 5, 2015

Helle Livestock  
1350 Stone Creek Rd  
Dillon, MT 59725

Dear Helle Livestock,

I am writing on behalf of Gallatin Wildlife Association in regards to your permits to graze domestic sheep on land managed by the U.S. Forest Service in the Gravelly mountains of southwest Montana.

On April 8, 2015, Doctor William Mealer of the Gallatin Wildlife Association contacted you about the opportunity to discuss retiring your domestic sheep permits. It is our understanding that you do not wish to discuss retiring the permits.

Cottonwood Environmental Law Center recently filed a 60 Day Notice of Intent to Sue the U.S. Forest Service on behalf of Gallatin Wildlife Association over the domestic sheep allotments. We respectfully request that you procure alternative grazing lands in the event the court enjoins grazing on the allotments.

If you wish to discuss this matter further, please contact Doctor Bill Mealer or Glenn Hockett with the Gallatin Wildlife Association.

Sincerely,

John Meyer, Executive Director  
Cottonwood Environmental Law Center

Glenn Hockett, Volunteer President  
Gallatin Wildlife Association  
(406) 581-6352

Doctor Bill Mealer, Member  
Gallatin Wildlife Association  
(406) 539-3902